

REMARKS

Although not believed to be necessary for patentability, without prejudice, and in order to expedite the passing of the present application to issuance, Claim 1 has been amended by incorporating the subject matter of claim 8. Support for this range may also be found at page 5, lines 29-32 of the Specification. Claim 8 has been canceled. Independent Claim 1 now requires about 10 wt% to about 30 wt% of a cationic stabilizing agent.

Care has been taken not to introduce any new matter.

35 USC § 103

Claims 1-14 were rejected under 35 USC 103(a) as being unpatentable over **DE 19 751 151 A1** ("DE '151"). According to the Office Action, the reference discloses perfume oil microemulsions comprising 10-50% by weight of perfume oil, 1-10% by weight of an oil component, 1-30% of an alkylpolyglycoside emulsifier and, optionally, a cationic co-emulsifier (p.4, lines 5+); Suitable cationic emulsifiers include ester quats (p. 4, lines 52+), and mono- or di(long chain) quats; The compositions are described as clear. ; Use of water-miscible solvents is disclosed at p. 5, lines 1+. ; Dyes, fluorescing agents and optical whitening agents may be added (p. 4, lines 60-61).; If the perfume, oil and emulsifier are used at the high end of the disclosed range, water, which makes up the balance of the compositions, will be present at about 10%, and the compositions will be water-in-oil microemulsions.

Regarding the dependent claims, the Office Action continues to state that, the limitations of claims 5-7 reflect typical levels of dye usage, solubility of perfume oils in water and solubilities of common sulfonic dyes and fluorescent agents. Further,

according to the Office Action, this reference differs from the claimed subject matter in that it does not disclose a composition, which reads on applicant's claims with sufficient specificity to constitute anticipation.

The Office Action concludes that it would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition.; The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

Applicants agree with the Office Action that, this reference differs from the claimed subject matter in that it does not disclose a composition that reads on Applicant's claims with sufficient specificity to constitute anticipation. Moreover, Applicants respectfully submit that the Office Action does not address the fact that reference fails to disclose or suggest a critical element of the present invention, which contributes to the stability of the present concentrated perfume and dye compositions. Specifically, the reference fails to disclose or suggest that the stabilizing agent have an $L\alpha$ to $L\beta$ transition temperature of 45°C or below. According to Applicant's specification, not all cationic stabilizing agent that meet the structural limitations meet the $L\alpha$ to $L\beta$ transition temperature limitation (pp. 7-8). As such, a *prima facie* case of obviousness has not been set forth in the Office Action.

The present invention relates to a concentrated perfume composition that also contains a dye, to a method of manufacturing a fabric softening composition from the concentrated perfume composition, and to a fabric softening composition so produced.

The problem that the Applicant wishes to solve is to prepare a stable, concentrated

perfume and dye composition, which is used to give an exact dosage of perfume and dye in a fabric softening composition. Simplified automated manufacture of fabric softening compositions is achieved by addition to a base containing fabric softening agents the concentrated perfume composition of the invention.

The proposed solution is to prepare a water-in-oil micro-emulsion comprising:
(a) 15-95 wt. % lipophilic perfume, (b) 0.05-5 wt. % water-soluble dye, (c) 4-50 wt. % of a stabilizing agent comprising a cationic stabilizing agent, (d) a water miscible solvent, and (e) 0.1-20 wt. % water. The stabilizing agent (1) must be cationic and (2) must have an $L\alpha$ to $L\beta$ transition temperature of 45°C or below. Any cationic stabilizing agent meeting the claimed transition temperature requirement may be used according to the invention. Compounds that are cationic and meet the general structural limitations but which do not meet the transition temperature requirements are not cationic stabilising agents according to the present invention.

The cited reference, DE '151, relates to fabric softeners of which a perfume micro-emulsion is a component. The problem to be solved in DE '151 is to provide a method of avoiding gelation in fragrance-containing fabric softening agents and to permit introduction of higher amounts of fragrance into said compositions. The proposed solution is to prepare a water-in-oil micro-emulsion comprising perfume, up to 10 wt.% of non-ionic or cationic emulsifiers, and 20-89% water. Said composition is then added to a fabric-softening composition where the fabric softening agents are chosen from quaternary ammonium or amine salts. In DE '151, the quaternary ammonium compounds are present in the final fabric softener, but are not present in the perfume micro-emulsion component. Furthermore, the optional non-ionic or cationic emulsifier disclosed in DE '151, if present, is in a smaller amount than required to stabilize the concentrated perfume composition of the present invention.